

EXHIBIT 37

Expert Report by Dr. Ajantha Subramanian

Kumar, et al. v. Koester, Case No. 2:22-cv-07550-RGK-MAA
United States District Court, Central District of California

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Expert Report by Dr. Ajantha Subramanian

Introduction

My name is Ajantha Subramanian. I was previously employed as a tenured Professor of Anthropology and South Asian Studies at Harvard University (2003-2023) and am currently employed as a tenured Professor of Anthropology at the City University Of New York, Graduate Center (2023).

The focus of my academic research is the history and politics of caste in South Asia. It is more broadly concerned with the endurance of caste inequalities in democratic societies and how they shape the reproduction of privilege and disadvantage. I have published two books, multiple peer-reviewed academic articles, as well as journalistic essays on this topic. My second book, *The Caste of Merit: Engineering Education in India* (Harvard University Press, 2019) addressed caste in higher education in India and the persistence of caste in the South Asian diaspora. I have also given public lectures on caste for specialist and non-specialist audiences in South Asia, the United States, and Europe, taught undergraduate and graduate students on issues related to caste, and supervised doctoral dissertations related to caste. My C.V. is enclosed as Appendix A, and my biographies from Harvard¹ and from the City University of New York² are enclosed as Appendices B and C. I am currently working on two projects related to caste, including one on caste in the United States.

¹ Ajantha Subramanian, Harvard Department of Anthropology, Harvard University, <https://perma.cc/6C8G-5U7Z>.

² Ajantha Subramanian, CUNY Graduate Center, The City University of New York, <https://perma.cc/XLR5-WZ3H>.

I have been asked to prepare an expert report on caste: what it is, and how it functions in South Asia and the United States. In doing so, I have reviewed relevant academic literature and all facts and data that I considered from this material are cited in the body of my report. I have also reviewed the documents provided to me by the Quarles and Brady LLP legal team representing the defendant in *Kumar v. Koestler* (including documents they produced in discovery, to Plaintiffs). All facts and data that I considered from these materials are cited in the body of my report. Additionally, I reviewed, but do not cite, the first amended complaint and the defendant's motion for judgment on the pleadings.

I have not testified as an expert at trial or by deposition in the previous four years. I have been engaged to provide my opinions in this case at the rate of \$300 per hour.

Opinions

1. What is caste and what are caste systems?

Caste is a descent-based system of social stratification that exists in many parts of the world including South Asia, East Asia, Africa, and the Americas.³ Although

³ Such conditions are described in the following sources: *2021 Country Report on Human Rights Practices: Bangladesh*. U.S. Department of State, <https://perma.cc/PV3U-5YQ8>; *2021 Country Report on Human Rights Practices: India*. U.S. Department of State, <https://perma.cc/7X5U-V9EH>; *2021 Country Report on Human Rights Practices: Mauritania*. U.S. Department of State, <https://perma.cc/2VR8-3VWW>; *2021 Country Report on Human Rights Practices: Nepal*. U.S. Department of State, <https://perma.cc/5BQA-V8SX>; *2021 Country Report on Human Rights Practices: Nigeria*. U.S. Department of State, <https://perma.cc/R978-GC8A>; *2021 Country Report on Human Rights Practices: Pakistan*. U.S. Department of State, <https://perma.cc/95SK-Z3RR>; *2021 Country Report on Human Rights Practices: Somalia*. U.S. Department of State, <https://perma.cc/WNH4-7A3E>; *2021 Country Report on Human Rights Practices: Yemen*. U.S. Department of State, <https://perma.cc/U9BR-DLWG>; *UNHCR Position on Returns to Mali – Update III*; United Nations High Commissioner for Refugees, January 2022, pp. 4–5, <https://perma.cc/UN39-5KUR>; *International Protection Considerations with Regard to People Fleeing Somalia*. United Nations High Commissioner for Refugees, Section III(A)(4), HCR/IPC/SOM/2022/01, September 2022), pp. 15, 18, 20–21, <https://perma.cc/M5X4-37LW>; Rita Izsák, *Rep. of the Special Rapporteur on minority issues*, United Nations Special Rapporteur on Minority Issues, U.N. Doc. A/HRC/31/56, Document E, 28 January

caste is a global phenomenon, this report focuses on caste in South Asia and among South Asians in the United States, as these are my predominant areas of research and scholarship.

In South Asia, caste is a “total social fact,”⁴ a set of ideas and practices that organizes every realm of social life from the legal and economic to the political, cultural, and religious. As “a dynamic and multidimensional reality,”⁵ caste has been a long-standing feature of Indian society dating well before colonialism.⁶ The indigenous term for caste is ‘*jati*.’ Historically, *jati* was the basic unit of South Asian society that was reproduced through marrying within the group and through occupational specialization. Although *jatis* were hierarchically ordered and ranked, the number of *jatis* and their relative status varied widely.

The co-existence of different forms of power – military, agrarian, mercantile, and religious – injected dynamism into South Asian caste society. Different *jatis* could vie for dominance and higher status by leveraging the forms of power at their disposal. Corresponding to the different forms of power were different idioms for

2016, ¶ III(C)(31), <https://perma.cc/7PX2-XH3J>; *Gen. Recommendation No. 29 (Descent)*. Office of the High Commissioner for Human Rights, Comm. on the Elimination of Racial Discrimination on Its Sixty-First Session, 2002, pp. 1–3, <https://perma.cc/FU4J-G3W5>.

⁴ Marcel Mauss, *The Gift: Forms and Functions of Exchange in Archaic Societies* (Martino Fine Books, 2011).

⁵ Susan Bayly, *Caste, Society, and Politics in India from the Eighteenth Century to the Modern Age* (University of Cambridge Press, 1999), p. 6.

⁶ Ananya Chakravarti, “Caste Wasn’t a British Construct – and Anyone Who Studies History Should Know That,” *The Wire*, June 30, 2019, <https://perma.cc/72W6-HA6B>.

establishing social precedence or rank such as kingly authority, land ownership, prowess in trade, and spiritual purity.⁷

While caste is hierarchical and hereditary, it is not wholly inflexible. As with race and ethnicity, caste *identity* is immutable but caste *status* is not. Caste mobility has typically taken the form of a resignification of group status through economic advancement, geographical migration, or political patronage. Through such strategies, caste groups have shifted their position relative to other caste groups. At the same time, the caste system continues to be characterized by hierarchically ranked status differences. Moreover, there has been far less flexibility at the top and bottom of the hierarchy. Dalits who occupy the lowest tier have experienced the least social and economic mobility.

Caste is not only a pervasive social phenomenon. It is also a key instrument of governance. Across South Asian history, caste served as the unit through which different states governed their populations. States administered Indian society by interacting with *jatis* as corporate social units. They classified them, taxed them, conscripted them to do specific kinds of labor, and recognized and buttressed the authority of specific caste leaders. As long as groups were internally organized along lines of endogamy and occupation, they were legible to state institutions as castes. States treated all such corporate social groups, regardless of whether they were Hindu, Christian, Muslim, or Sikh, as castes.⁸

Colonial rule in South Asia built upon precolonial caste society while changing some of its dynamics. Although precolonial states had administered society

⁷ Sumit Guha, *Beyond Caste: Identity and Power in South Asia, past and present* (Brill, 2013).

⁸ Sumit Guha, *Beyond Caste: Identity and Power in South Asia, past and present* (Brill, 2013).

through caste institutions, the administrative reach of the colonial state with its centralizing thrust, and the incorporation of South Asia into a European-dominated global economy, reshaped the meanings and practices of caste.⁹ For instance, through the implementation of the colonial census, the local and regional diversity of social groups was integrated into a pan-Indian, system-wide ranking of castes. As a result, caste as a way of organizing and inhabiting social differences became more systematized.¹⁰

The systematicity of caste continued into the post-independence period. South Asian nation-states continue to be structured along caste lines, with caste operating as “a multi-stranded rope in which political, economic, administrative, and kinship strands intertwine.”¹¹ Within Indian administrative classification, the local and regional diversity of *jatis* is aggregated in the following terms that reference degrees of “social and educational backwardness”: Forward Caste; Backward Caste and Most Backward Caste, which are grouped together under Other Backward Classes; Scheduled Caste, which is another term for Dalit; and Scheduled Tribe.

The Indian government has implemented policy measures, such as discrimination bans and affirmative action, to address historical and ongoing caste inequities.¹² The

⁹ Susan Bayly, *Caste, Society, and Politics in India from the Eighteenth Century to the Modern Age* (University of Cambridge Press, 1999).

¹⁰ Bernard Cohn, "The Census, Social Structure, and Objectification in South Asia" in *An Anthropologist among the Historians and other essays*, Oxford University Press, 1987.

¹¹ Sumit Guha, *Beyond Caste: Identity and Power in South Asia, past and present* (Brill, 2013).

Indian Constitution bars caste discrimination, and the Indian Prevention of Atrocities Act of 1989 targeted ongoing mistreatment of Dalits.¹³ Additionally, in India, affirmative action takes the form of federal and state government quotas in public education and employment. Currently, the federal quotas are as follows: 15 percent for Scheduled Castes, 7.5 percent Scheduled Tribes, and 27 percent for Other Backward Classes.¹⁴ In this sense, caste continues to be both a social and administrative reality.

2. Is caste uniquely associated with Hinduism or with religion?

Caste cannot be reduced to a religious institution; it is best understood as an institution that undergirds social relations across all populations and spheres of South Asian life.¹⁵

¹² Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (Oxford University Press, 1984); Susan Bayly, “State Policy and ‘Reservations’: The Politicization of Caste-Based Social Welfare Schemes,” in *Caste, Society, and Politics in India from the Eighteenth Century to the Modern Age* (University of Cambridge Press, 1999), pp. 266-305.

¹³ Constitution of India, Article 15(1), (2), <https://perma.cc/2Z6U-VX2H>; India Act No. 33 of 1989, Chapter II, ¶ 3, <https://perma.cc/DQ36-U6XH>.

¹⁴ *Reservation Policy*. Ministry of Personnel, Public Grievances & Pensions, Press Information Bureau, Government of India, 13 February 2019, <https://perma.cc/HC6E-BU7V>.

¹⁵ Sumit Guha, *Beyond Caste: Identity and Power in South Asia, past and present* (Brill, 2013); Susan Bayly, *Caste, Society, and Politics in India from the Eighteenth Century to the Modern Age* (University of Cambridge Press, 1999).

Four examples will clarify how caste functions as a social and not merely a (Hindu) religious institution. *First*, in regions where untouchability was most intensively practiced, “untouchables” were agricultural laborers, not groups who did ritually impure tasks. In other words, their denigrated social status was a function of their role as a captive labor force within an exploitative system of economic production, not a function of their purported Hindu ritual impurity. This does not mean that they were not treated as ritually impure. However, ritual impurity was more a post-facto rationalization of their economic and political subjugation than its cause.¹⁶ *Second*, caste continues to structure social relations within all religious communities. Lower caste groups within Islam and Christianity, for instance, are treated as socially distinct and inferior with places of worship and burial grounds segregated along caste lines. In other words, conversion from Hinduism was not a conversion out of caste.¹⁷ *Third*, endogamy is organized around caste and not

¹⁶ Rupa Viswanath, *The Pariah Problem: Caste, Religion, and the Social in Modern India* (Columbia University Press, 2014).

¹⁷ Geoffrey Oddie ed., *Religious Conversion Movements in South Asia: Continuities and Change, 1800-1900* (Curzon: Surrey); Susan Bayly, *Saints, Goddesses and Kings: Muslims and Christians in South Indian Society, 1700-1900* (Cambridge University Press, 1989); Robert L. Stirrat, “Caste conundrums: views of caste in a Sinhalese Catholic fishing village,” in D. B. McGilvray ed. *Caste, Ideology and Interaction* (Cambridge University Press, 1982); Kenneth Ballhatchet, *Caste, Class and Catholicism in India, 1789-1914* (Curzon Press, 1998); Ajantha Subramanian, *Shorelines: Space and Rights in South India* (Stanford University Press, 2009); David Mosse, *The Saint in the Banyan Tree: Christianity and Caste Society in India* (University of California Press, 2012);

religion. For example, there is more intermarriage between Hindus and Christians of the South Indian caste of Nadars than there is between Hindu Nadars and other Hindus.¹⁸ *Fourth*, India has laws and policies to protect lower castes from discrimination and to advance their educational and employment opportunities that include groups from both Hindu and non-Hindu communities. For example, Sikhs, Buddhists, Muslims and Christians from castes that are deemed socially and educationally backward are included within the governmental classifications of “Scheduled Castes” and “Other Backward Classes” and are eligible for affirmative action. In other words, the Indian government recognizes that caste is practiced across religious communities.¹⁹

Imtiaz Ahmad, *Caste and social stratification among Muslims in India* (Manohar Publications, 1978); Imtiaz Ahmad, “A Different Jihad: Dalit Muslims’ Challenge to Ashraf Hegemony,” *Economic & Political Weekly*, 38(46): 4886–91, 2003; Shamsheer Alam, “Dalit Muslims and the State: Pasmenda Movement and Struggle for ‘Scheduled Castes Status,’” in *Contemporary Voice of Dalit*, 2022, pp. 1–11; Surinder Jodhka, “Sikhism and the caste question: Dalits and their politics in contemporary Punjab,” *Contributions to Indian Sociology*, Vol. 38, Issue 1-2, 2014; Nathaniel Roberts, *To be Cared For: the power of conversion and the foreignness of belonging in an Indian slum* (University of California Press, 2016).

¹⁸ Robert L. Hardgrave, *The Nadars of Tamilnadu: The Political Culture of a Community in Change* (University of California Press, 1969).

¹⁹ Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (Oxford University Press, 1984); Susan Bayly, “State Policy and ‘Reservations’: The Politicization of Caste-Based Social Welfare Schemes,” in *Caste, Society, and Politics in India from the Eighteenth Century to the Modern Age* (University of Cambridge Press, 1999), pp. 266-305.

In sum, the social world of caste is not a self-contained religious or cultural universe. It is deeply connected to larger political and economic structures.

3. What is caste discrimination?

The Indian scholar and constitutionalist, B.R. Ambedkar, referred to the caste system as one of “graded inequality” characterized by “an ascending scale of reverence and a descending scale of contempt.”²⁰ While power and status are more fluid in the intermediate levels of the caste hierarchy, Scheduled Castes or Dalits, the group once known as “untouchables” who occupy its lowest level, have experienced far less social and economic mobility.

Caste discrimination works through the control of most spheres of social and economic life including land, labor, education, media, white-collar professions, and political institutions. It is kept in place through practices of endogamy, labor segmentation, spatial segregation, and everyday forms of stigma and vigilante violence.

Caste endogamy is still the norm in South Asia. Inter-caste marriage, especially when it is between a Dalit man and a woman of a higher caste is often met with extreme vigilante violence.²¹

Although caste is no longer strictly correlated to occupation, labor segmentation is still evident at the extreme ends of the occupational ladder. Upper

²⁰ B.R. Ambedkar, *Annihilation of Caste*, 1936.

²¹ Study Finds Rise in Reported Cases of Honour Killings, but No Legislative or Social Remedy in Hand. *The Wire*, April 11, 2023, <https://perma.cc/M2JX-NU4L>

castes dominate the highly coveted and lucrative Information Technology sector.²² Dalits dominate the waste industry, including manual scavenging,²³ or the manual disposal of human waste, as well as the disposal of dead animals.²⁴ More generally, caste structures the labor market in India with discrimination operating as a barrier to lower caste social and economic mobility.²⁵

Caste-based spatial segregation continues to be common in rural India with Dalits relegated to environmentally polluted and poorly serviced neighborhoods. In urban India, spatially-based caste discrimination works through occupational

²² C.J. Fuller and Haripriya Narasimhan, “Information Technology Professionals and the New-Rich Middle Class in Chennai (Madras),” *Modern Asian Studies* 41: 121–50, 2007; C. J. Fuller and Haripriya Narasimhan, “From Landlords to Software Engineers: Migration and Urbanization among Tamil Brahmins,” *Comparative Studies in Society and History* 50, 1: 170–96, 2008.

²³ Ratik Asokan, The Long Struggle of India’s Sanitation Workers. *The New York Review*, August 24, 2023, <https://perma.cc/BL45-P338>.

²⁴ Shoaib Daniyal, 'Your mother, you take care of it': Meet the Dalits behind Gujarat’s stirring cow carcass protests, *Scroll*, July 23, 2016, <https://perma.cc/UY93-H2FP>; Damayanti Dhar, “One year on, ‘There is no justice’ for Una flogging victims,” *The Wire*, July 7, 2017, <https://perma.cc/4EPY-ZNAK>.

²⁵ Sukhadeo Thorat et al. *Scheduled Castes in the Indian Labour Market: Employment Discrimination and Its Impact on Poverty* (Oxford University Press, 2023).

segregation²⁶ and through housing covenants barring non-vegetarians, which operates as a proxy for lower castes and Muslims.²⁷

Caste discrimination also functions in educational settings. Over the post-independence period, members of historically disadvantaged castes have been able to avail themselves of affirmative action quotas to join higher educational institutions. However, their experiences have been far from salutary. Dalits especially face intense discrimination in more elite public educational institutions and are routinely scapegoated as intellectually inferior and unworthy of inhabiting the same institutional spaces as their caste-privileged peers.²⁸ This is particularly visible on engineering college campuses where dress style, accent, facility with English, rank in the entrance examination, and academic performance are used to try

²⁶ Anupama Rao, *The Caste Question: Dalits and the Politics of Modern India* (University of California Press, 2009); Joel Lee, “Odor and Order: How Caste is Inscribed in Space and Sensoria,” *Comparative Studies of South Asia, Africa, and the Middle East*, Vol. 37, No. 3, December 2017, pp. 470-490; Nathaniel Roberts, *To be Cared For: the power of conversion and the foreignness of belonging in an Indian slum* (University of California Press, 2016).

²⁷ Suryakant Waghmore, “Vegetarianism in India has more to do with caste hierarchy than love for animals,” *Scroll*, April 6, 2017, <https://perma.cc/C3EH-KART>; Gautam Bhatia, “Let’s talk about housing discrimination,” *The Wire*, June 12, 2015, <https://perma.cc/8J4K-5947>.

²⁸ Ashwini Deshpande, “Double Jeopardy? Stigma of Identity and Affirmative Action,” *The Review of Black political economy*, Vol. 46 (1), pp. 38-64, 2019; Satish Deshpande, “Caste and Castelessness: Towards a Biography of the ‘General Category,’” *Economic and Political Weekly* 48, 15 (13 Apr.): 32–39, 2013; Ajantha Subramanian, *The Caste of Merit: Engineering Education in India* (Harvard University Press, 2019).

and discern someone's caste and determine whether they are worthy of elite higher education.²⁹ The prevalence of such discrimination has resulted in profound isolation and imposter syndrome, which has sometimes led to suicides by Dalit students.³⁰

The Indian government has laws to combat caste discrimination and inequality. But attempts to provide lower castes with protection and redress — for example, through the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act³¹ and through caste-based affirmative action in public education and government employment — are routinely flouted or met with fierce opposition from privileged castes. The past 20 years have also witnessed the rise of Backward Caste and Scheduled Caste political movements that have demanded rights and resources.³² However, their claims to dignity, well-being and rights are still met with social ostracism, economic boycotts, or physical violence.

²⁹ Ajantha Subramanian, *The Caste of Merit: Engineering Education in India* (Harvard University Press, 2019), Chapters 5 and 6.

³⁰ Vinoj Kumar, "Dalits not Welcome in IIT Madras," *Tehelka Magazine*, 16 June, 2007; Sukanya Shantha, "Dalit student's suicide points to well-known – but ignored – caste discrimination at IITs," *The Wire*, February 15, 2023, <https://perma.cc/QLN8-732Y>.

³¹ Exhibit 29; Anupama Rao, "Understanding Sirasgaon: notes towards conceptualising the role of law, caste and gender in a case of 'atrocities,'" *Gender and Caste*, 2000.

³² Christophe Jaffrelot, *India's Silent Revolution: The Rise of the Lower Castes in North India* (Columbia University Press, 2003).

4. Is caste discrimination an issue in the United States?

Caste is a source both of inherited disadvantage and of inherited privilege. In South Asia, the inheritances of caste have determined who has the means to succeed educationally, economically and professionally. They have also shaped patterns of migration to the United States. The inheritances of caste are evident in the current social makeup of the South Asian American population, which is highly educated, affluent, and made up disproportionately of historically privileged castes.

The biggest increases in South Asian migration to the United States followed the 1965 US Immigration Act and the 1990s Information Technology boom. Approximately 60 percent of the current South Asian population came after 2000; it is comprised substantially of recent migrants from India who are reproducing older patterns of family and social life.³³ As with other diasporas that did not wholly sever ties with places of origin,³⁴ the South Asian diaspora too is shaped by continuities in attitude and practice.

The South Asian American population is now the most highly educated and affluent group in the US – what some have called “the Other One Percent.”³⁵ This outlier character of the South Asian American population is especially evident when it comes to Indian Americans. Indian Americans are the product of a “triple selection:” first, of a caste-based social system in which a small percentage receive

³³ Sanjoy Chakravorty, Devesh Kapur, and Nirvikar Singh, *The Other One Percent: Indians in America*, Oxford University Press, 2016.

³⁴ Khachig Tololyan, “Rethinking Diaspora(s): Stateless Power in the Transnational Moment,” *Diaspora*, Vol. 5, 1, 1996.

³⁵ Sanjoy Chakravorty, Devesh Kapur, and Nirvikar Singh, *The Other One Percent: Indians in America*, Oxford University Press, 2016.

higher education; second, of an examination system that selects individuals from this first pool for higher education in technical fields; third, of a U.S. immigration system that favors individuals with skills suited to the information technology sector. Currently, 68 percent of Indians in the US have a college degree as compared to 7.8 percent of the Indian population in India and 20 percent of the US population. One out of every four South Asian American workers have advanced technical degrees and work in the technology sector.³⁶

Historically disadvantaged castes are a small minority within this population. Redistributive measures implemented by post-independence South Asian states have enabled some individuals from marginalized caste groups to migrate to the United States. Most, however, do not have the social or economic capital to leave South Asia. As a result, the caste demographics of the South Asian American population stand in stark contrast to the caste demographics of South Asia. This is especially the case with India. The highly selective nature of migration from India to the United States has meant that historically privileged castes that constitute 30 percent of the national population of India comprise an overwhelming majority of the Indian American population.

These caste demographics make members of historically disadvantaged castes who have succeeded in coming to the United States uniquely vulnerable to discrimination. As a minority within a minority, they are rendered invisible, which makes discrimination both easier to perpetuate and more difficult to address. The fear of stigma and discrimination has led some, such as the members of the

³⁶ Sanjoy Chakravorty, Devesh Kapur, and Nirvikar Singh, *The Other One Percent: Indians in America*, Oxford University Press, 2016.

Ravidassia community of California, to remain largely hidden as members of the wider Sikh American community.³⁷

Caste discrimination in the United States takes a variety of forms. First, it is perpetuated through the membership terms of caste-based civil society organizations.³⁸ Some of these organizations are aimed more narrowly at creating a caste-exclusive marriage market, which perpetuates patterns of caste endogamy.³⁹ Such organizations claim to be cultural or ethnic organizations that are emblematic of multicultural democracy.⁴⁰ However, their basis in caste makes them inherently discriminatory.

³⁷ Deepa Bharath, What California's Ravidassia community believes and why they want caste bias outlawed. *The Indian Express, Journalism of Courage*, June 1, 2023, <https://perma.cc/SDB7-LKH6>.

³⁸ Examples of such organizations include the Brahman Samaj of North America (<https://perma.cc/UBW2-8H3B>), the Kongu Vellalar Gounder association of North America (<https://kongunorthamerica.org/web/>), the Chettiar Sangam (<https://perma.cc/82CY-ZPHR>), North American Jat Heritage Foundation (<https://perma.cc/2RE5-A92B>), the North Carolina Telugu Brahmin Association (<https://perma.cc/CPQ3-WG23>), the Nair Benevolent Association of North America (<https://perma.cc/JC5N-BLNC>), Kshatriyas Association of North America (<https://perma.cc/XJZ4-PE25>), and Rajput Association of North America (<https://perma.cc/B7Y8-ZLXT>).

³⁹ Some examples are Bharat matrimony (<https://perma.cc/L4ES-3MHA>), Kayastha Matrimony (<https://perma.cc/WTN6-F3HX>) and National Chettiars Matrimony (<https://perma.cc/5L7Q-8ULN>).

⁴⁰ Balmurli Natrajan, *The Culturalization of Caste in India: Identity and Inequality in a Multicultural Age*, Routledge, 2012.

Caste discrimination is also operative in the American workplace. Two ongoing lawsuits appear to illuminate largely hidden, yet pernicious patterns of discrimination and exploitation. In both, the litigants are members of the Dalit caste. The first is the discrimination suit filed in June 2020 against the technology conglomerate Cisco Systems Inc. and two supervisors by the California Department of Fair Employment and Housing on behalf of a Dalit engineer. According to the lawsuit, Cisco failed to adequately address caste discrimination by two supervisors from privileged caste backgrounds. The Dalit engineer alleges that one of the supervisors “outed” him as a beneficiary of Indian affirmative action. The lawsuit says that when he complained to the human resources department, the supervisors retaliated by denying him opportunities for advancement.

The claim made by the Dalit engineer is consistent with patterns of discrimination found in South Asia. The plaintiff and one of the supervisors are graduates of the Indian Institutes of Technology, a set of elite public engineering colleges in India. When the Indian government implemented caste-based affirmative action quotas in these colleges in 1973 and 2006, students admitted through the quotas were met with fierce opposition and stigmatized as unworthy of an elite education. The fear of exposure has forced many Dalit students in these and other elite educational institutions to try and “pass” as non-Dalits.

While the case is ongoing, it appears to shed light on comparable patterns of caste discrimination in the U.S. tech sector. By allegedly “outing” the Dalit engineer, the supervisor marked his caste and, in effect, deemed him unworthy of his position at Cisco. The company has denied the allegations and said that its investigation found no grounds to support claims of caste discrimination or retaliation. The company did not deny that caste discrimination is something that could occur or exist, but rather that the Dalit engineer was not subjected to that form of discrimination.

A public statement released in October 2020 by 30 Dalit women engineers in Silicon Valley is consistent with the claims of the Cisco case's John Doe about caste discrimination in the U.S. technology sector.⁴¹ There are three noteworthy points in their statement. First, it attests to the operations of caste in Indian education and employment where they had to “dodge difficult caste locator questions about where we are from, what religion we practice, and whom we have married -- questions designed to place us into the caste hierarchy against our will.” As with John Doe, they also “had to weather demeaning insults to our background and accusations that we have achieved our jobs solely due to affirmative action.” Second, the statement attests to the persistence of caste discrimination in American technology companies where it takes the form of inappropriate jokes about affirmative action and about Dalit women's sexuality. While they admit that their identity as Dalit women may not have been known in every instance, they proceed to say the following: “we do know that for those of us whose last names, and caste and religious identities were apparent, we faced some sort of casteist comment (used as an excuse to classify our programming as shoddy). The worst cases resulted in sexual harassment.” Third, the statement attests to their vulnerability in American workplaces without caste protections: “we did not have a lot of options to report these incidents to our respective HR departments because caste was not a protected category. The worry about losing our immigration status if we were fired was another barrier.”

A second legal case shows how stark differences of caste power and status can lead to overt labor exploitation. In May 2021, lawyers representing a group of Dalit workers filed a lawsuit against the Hindu sect known as BAPS (Bochasanwasi

⁴¹ A statement on caste bias in Silicon Valley from 30 Dalit women engineers. *The Washington Post*, October 27, 2020, <https://perma.cc/XW83-9W45>.

Akshar Purushottam Swaminarayan Sanstha) and related parties.⁴² The workers alleged that they were brought to the United States on visas designated for religious workers to help build a temple in New Jersey. They claimed that they were forced to work for more than 87 hours a week for \$450 a month, or less than \$2 an hour. Furthermore, they said they were not allowed to leave the temple property unaccompanied, were constantly monitored and were threatened with pay cuts, arrests, and expulsions to India if they spoke to outsiders.

Even before the Cisco case, a Nepalese restaurant worker filed a caste discrimination suit with the New York State Division of Human Rights against the Nepalese restaurant for which he worked. The Division dismissed the case because the investigation found insufficient support for the complainant's allegations of unlawful discrimination due to "race/color, creed or national origin," all protected classifications that the complainant shared with the manager and co-workers who allegedly discriminated against him. The Division's determination stated the following: "Complainant's presentation of the facts suggests that he was discriminated against because of his caste, which is not a protected classification under the Human Rights Law. To the extent that complainant alleges to have been discriminated against because of his caste, his allegations are beyond the jurisdiction of the Division."⁴³

⁴² Hindu Sect Is Accused of Using Forced Labor to Build N.J. Temple. *The New York Times*, published May 11, 2021, updated November 10, 2021, <https://perma.cc/24T5-GFMR>.

⁴³ *Determination and Order After Investigation*. Division of Human Rights, New York State, Federal Charge No. 16GB704463, Case No. 10190257, January 24, 2018, <https://perma.cc/9LXL-7QCD>.

Caste discrimination is also present within American educational spaces, as confirmed by the testimony of CSU students at public board meetings of the Cal State Students Association and through public comment at a California State University Board of Trustees meeting.⁴⁴ It is further confirmed by a student complaint of caste discrimination filed with the CSU Title IX office by a Dalit Christian who was subjected to caste slurs and physical violence from their roommate, a privileged caste student in the same academic program. Both students were migrants from India on student visas. Despite the seriousness of the case, the victim decided not to file a police report in order to protect the perpetrator from possible deportation.⁴⁵

The predominance of faculty, students, and staff from privileged caste backgrounds, accompanied by the presence of a small “minority within a minority,” create the conditions for such discrimination. In my own research on U.S.-based alumni of the Indian Institutes of Technology, I found that those who work as engineering and computer science faculty at some of the most prestigious institutions including Duke University, Harvard University, Massachusetts Institute of Technology, and Stanford University consciously recruit alumni from their alma

⁴⁴ “Board of Directors Meeting, Cal State Student Association, April 10, 2021, <https://www.facebook.com/watch/?v=181636457004003>. Accessed August 30, 2023; Plenary Session, Board of Trustees Meeting, California State University Board of Trustees, January 25, 2021, <https://youtu.be/JbYGI3LPS20?si=ZU8ScPPsFQ6J21Et>. Accessed August 30, 2023.

⁴⁵ The student’s caste discrimination complaint and supporting documents can be found as part of the defendant’s discovery, at BATES numbers CSU_001447-CSU_001463.

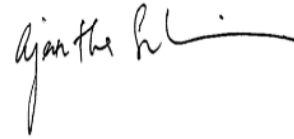
maters (i.e., the Indian Institutes of Technology). While such patterns of social reproduction through institutional nepotism are not an uncommon phenomenon, there can be a caste basis to this preferential treatment among South Asians. After caste-based affirmative action was extended to institutions like the Indian Institutes of Technology, those admitted through quotas came to be perceived as “lesser” students. There also emerged a tiered recruitment system through which beneficiaries of governmental quotas were tracked into less desirable jobs despite having the same pedigree. This ranked system extends to the United States where there is now added scrutiny about the admissions category of Indian job candidates in order to ascertain whether they were “quota students.” In other words, the very measures intended to provide redress for historical inequities have produced new forms of caste discrimination.⁴⁶

⁴⁶ Ajantha Subramanian, *The Caste of Merit: Engineering Education in India* (Harvard University Press, 2019), Chapter 7.

Summary of conclusions.

Caste cannot be encompassed within any one religion nor is it simply a product of European colonialism. It a “total social fact” that organizes all spheres of South Asian social life and has been a feature of South Asian history from well before the advent of British colonial rule.

The presence of caste-based civil society organizations in the United States, the role of caste networks in structuring access to U.S. higher education and professional employment, and the discrimination experienced by members of historically disadvantaged caste backgrounds are evidence that caste is a social reality in the United States and in U.S. higher education.

A handwritten signature in black ink, appearing to read 'Ajantha Subramanian', with a stylized flourish at the end.

Ajantha Subramanian